

**A Pocket Manual for Federal Labor Employee
Relations Professionals
Information and Resources**

You have just been called into your supervisor's office. Your supervisor informs you that a manager will be coming to your office shortly to discuss a "problem" that might lead to discipline. With a smile, she hands you a note containing the manager's name and appointment time. You take the note, walk out of her office, thinking: What do I do now?"

What you do, when you do it, how you do it, and why you do it is what we will cover in this presentation.

THE BASICS

****A specialist, who communicates effectively, is honest, timely and shows professionalism will be taken seriously. Sure, you'll make mistakes, but admit it when you make one...and move on.

Develop your plan:

There are two basic questions that you will need to answer when developing your plan. First, what overall strategy will best serve the manager's realistically attainable goals? Second, how does each piece of your plan contribute toward achieving those goals? Addressing each of these questions early, and constantly keeping the answers in mind, will do much to develop and implement an intelligent, realistic case management plan.

A plan obviously requires structure. The basic steps are listed here followed by a discussion of steps 1-4.

1. Establish the terms of the relationship you will have with the manager
2. Determine your manager's needs and priorities
3. Determine the elements required for any of the potential claims made
4. Identify likely sources of proof
5. Determine what, if any, informal fact investigation is necessary
6. Identify solutions
7. Develop a strategy
8. Start a timetable for the case...use your calendar
9. Develop a case management system

1. Establish the terms of the relationship you will have with the manager

It is very important to remember that one of our primary responsibilities is to educate the federal managers that we are tasked with supporting. Always begin your meeting with an explanation of the role you play in the process. Take this time to clarify roles and responsibilities. Once you have explained your role you should document the meeting in your case file.

It is also a good idea to give them your business card, and be sure to let them know your standard response times to inquiries. For example, voice mails are returned either early a.m. or late p.m.

2. Determine your manager's needs and priorities

Keep in mind managers seek out HR when they have problems that need to be solved. It is your job to first identify the manager's problems and needs, viewing them broadly.

Remember there are several factors that can inhibit a manager from a full disclosure of information. Often a manager will provide you with the information he believes you need to obtain the desired result. This may mean negative and contradictory facts may be withheld. Additionally, a manager may have internal reasons, such as embarrassment or fear that may prevent him from disclosing all of the information.

Creating an environment that is comfortable, private and non-judgmental will often facilitate the manager divulging all of the facts, and will create a positive pretext for future conversations.

A positive environment has several components:

1. A setting that is informal, friendly and private is more apt to make the manager feel relaxed.
2. A private office is a good place to conduct an interview; a small conference room would also work well

Prior to the interview:

1. Request that the manager collect any available documents that will be used to substantiate or refute the claim being made.

2. Request the manager draft a short memo detailing the relevant facts, list the names of all the persons involved, and create a chronology of the events.

During the interview:

1. Periodically paraphrase what the manager has told you. This not only shows you are listening, but it also assures that you understand what is being conveyed.

Once you have the basic facts it is time to assist the manager in deciding whether to discipline, whom to discipline, and for what reasons.

Remember the two main reasons agencies lose their case:

1. Did not prove the facts, or
2. Proved the facts, but the conduct was not actionable.

3. Determine the elements required for any of the potential claims made

The elements of proof for a specific charge, i.e., what the agency must prove by a preponderance of the evidence must be analyzed. For example, the charge of AWOL requires

1. Failure to report to work at assigned time
2. Failure to communicate reasons for not reporting to work at duty time.

4. Source(s) of proof

Prior to issuing a proposal letter the manager will need to provide proof of the offense. This proof can come from documents, witness statements, photographs, physical objects, etc... Just be sure your case file contains references the basis for initiating the proposed discipline.

The Importance of Preparation

In these increasingly litigious times, it cannot be stressed enough the importance of documentation. Calendars show a history of what

transpires throughout a year. They are invaluable and everyone should keep one.

Decision making is a process of problem solving that leads us to a plan of action after considering our alternatives. If you were to pack a bag for this decision making journey, what would you include?

Your goal should be to sift through the facts and work toward an end plan of action. Don't allow yourself to get locked emotionally. Above all else, assume nothing.

Build trust with your managers. Be up-front with your managers, even when relaying information that you feel they may not agree with.

Be professional at all times. Your purpose is not to ridicule, embarrass, entrap or find ways to undermine. Telling managers verbally or in writing:

We'll get them
I've battled with _____ before.
We can play the same game.

As an advocate **your behavior** should set the tone.

Since you are typically the point of contact, stress to your managers the importance of keeping you up to date. Request any pertinent information to be sent as a letter or e-mail to document the events.
**Remind your managers that any email may be subject to discovery and, as such, should only contain facts. Opinions are fine, just keep them to oral communications.

MEETINGS

At the end of each meeting, consider:

What went well?
What didn't?
Where did we make progress?
What would I have done differently?
What did I do to make participants comfortable? Uncomfortable?
What changes do I need to make?

Top Five Things To Remember When Calling a Meeting

1. Be sure to introduce all participants to one another. This includes providing their title.
2. Take notes. If agreed to by the participants, a recording device may be used. If taping, be sure to have each participant say his or her name and title. Re-introduce everyone on tape after any breaks.
3. Keep to the Agenda
4. End the meeting at the promised time
5. Be sure to thank all participants for their time

COMMUNICATION:

Always remember confidentiality. Never write or say anything you wouldn't want the whole world to know. Assume millions will view every e-mail or online post. Visualize a subpoena demanding "all correspondence, including notes, letters, e-mail, voice mail (including digital and computer based files), etc..."

Telephone Calls

Prepare before you make a telephone call. Write down your questions before you place the call. You will also want to log your call your case file log.

Voice Mail

When leaving voice mail, don't assume privacy. Never leave sensitive information in someone's voice mail box.

An important part of your job is making sure your managers handle every situation as if they were eventually going to end up in court.

The Rules of Adverse Assumption

The Rules of Adverse Assumption are the keys to your success. If you have a grievance, ULP, etc..., you must make several negative assumptions.

-Assume the issue will go through arbitration and then on to the MSPB or FLRA.

-Assume your arbitrator or Administrative Law Judge is biased

-Assume that management personnel on whom you relied will not testify exactly as you had planned.

"What?" you ask. "I don't understand."

A hearing or arbitration will be held. My star witness will not provide the testimony I had expected and the ALJ/Arbitrator is biased.

A wave of dizziness hits, your chest feels tight and fear has set in. Good, fear will force you to prepare.

To Avoid Conflict, Prepare for Conflict

To do this you will need to remember that good records are essential to effective advocacy.

How to Write Good Evidence Letters

Letters are written to:

Request information

Request action

Provide information or describe an event

Decline a request

Express appreciation- Everyone has an invisible sign hanging from his or neck saying, "Make me feel important." Never forget this when you deal with people." - Mary Kay, business owner

Letters are also used to build relationships, identify and solve problems, clarify decisions that are made or not made, and motivate people to take action.

Before you write your letter, take the time to think about your purpose in writing the letter. What do you want your letter to accomplish?

A thank-you letter also documents what you were told. While thanking the recipient you can also weave important information into the letter.

Your letters should use clear, everyday language. Avoid jargon or rambling sentences. You can add empathy to your letters by using "you," "we," and "our."

Remember your reader is more likely to remember the first and last thing he or she reads. In your last sentence, restate the action you want your reader to take.

Most importantly, set a time limit for reply and always end your letter with courtesy. Always give contact information. Make it easy for your reader to respond to your letter. This includes giving your telephone number, fax number, and email. If possible end your letter with a benefit to your reader. To save us both time during this hectic season, please_____.

Warning, Your Letter will Live on Forever.

“Letter to a Stranger”

Difference between the blaming approach and the story telling approach.

- Assume strangers will read your letter.
- People lose interest if your letter is too long and will begin to skim.
- People do not like angry, threatening letters.

***Your letters should want to educate and inform the reader.

Tips:

Your first letter should always be a draft. Wait 24 hours before attempting to edit the draft.

Case file: Do It Right!

Make a Master Contact List

Make a list of all individuals and departments that may have information or records that you may need. Your list should include the names and titles of all professionals who may be involved in your case either directly or indirectly. Include their addresses, telephone and fax numbers, and email addresses.

Documents:

Do not write on original documents. Do not use a marker or highlighter on original documents. Do not release your original

documents to anyone. Make a copy of any original documents for your case file. All original documents should be kept in a separate folder.

Each document that is received or sent should be recorded in a master index. Once logged, with a pencil, lightly date each document in the upper right corner.

Hole punch your documents. Use either a three ring binder or multi-parted folder.

If you want to write notes on your documents use sticky notes and then place those notes on your document.

Documentation that supports your position is key to resolving disputes. For example, logs, calendars and journals.

Remember, journal entries or log entries must be written when the event(s) or incident(s) occurred.

Documentation provides answers to "Who, What, Why, When, Where and How."

****If you use an electronic log be sure to back up or save in two forms.**

****Calendars provide good evidence about meeting dates and times. If you document a meeting on your calendar be sure to follow-up with a description of what happened in your journal or log.**

Simple Themes Win Cases

Simple themes win cases. Try to reduce your case file to one or two issues. Use a simple, compelling theme to bind your issues into a neat package. Tell a story!

HR Specialists are expected to have:

The strength of Atlas;

The most current legal resources;

A degree in library science;

Executive secretary capabilities....to handle the paperwork and answer the calls; and

Be available 24 hours a day to handle the crisis that is occurring on the third shift.